

## **Exhibit “C”**

### **Indemnity Language for Final Operating Agreement**

#### **Section [X]. Indemnification**

- [X].01 (a) Operator hereby agrees to indemnify, defend and hold harmless the City, its officers, officials, employees, agents, and contractors (excluding Operator) from and against any and all claims, losses, damages, liabilities, actions, judgments or execution of third parties of any kind or nature whatsoever, whether at law or in equity, including, but not limited to, reasonable attorney’s fees and court costs, arising out of, relating to, resulting from, or caused by Operator, its officers, board members, employees, agents, servants, contractors, subcontractors and representatives in its use or operation of the Center or the performance of its obligations under this Agreement or any aspect of the management, use or operation of the Center during the term of this Agreement, regardless of whether or not the same is caused in part by the City or any other person indemnified under this Section [X].01, except to the extent that the same is caused by the negligence or willful misconduct of the City or other person to be indemnified under this Section [X].01. The phrase “management, use or operation of the Center” as used in this Section [X].01 is deemed to include, but not be limited to, all of the responsibilities and obligation undertaken by Operator pursuant to this Agreement, and further contemplates Operator’s responsibility and liability for its own acts and omissions, as well as the acts and omissions of all Operator personnel, Operator contractors and Subcontractors and all invitees of Operator.
- (b) Legal Counsel. In performing the duties under this Section [X].01, Operator shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to City.
- (b) Other Provisions Separate. Nothing in this Section [X].01 shall affect any warranties in favor of the City that are otherwise provided in or arise out of this contract. This Section [X].01 is in addition to and shall be construed separately from any other indemnification provisions that may be in this contract.
- (c) Survival. This Section [X].01 shall remain in force despite termination of this contract with respect to acts and omissions occurring before termination of this contract (whether by expiration of the term or otherwise) and termination of the services of Operator under this contract.
- (d) Limitations of Operator’s Obligation. Subsection a of this Section [X].01 shall not require Operator to indemnify or hold harmless the City or other indemnified persons against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of the City or other indemnified persons.
- [X].02 Operator shall be given prompt notice of any claims for which the indemnification will be sought, shall be given full and complete cooperation from the City, in the defense or settlement of all such claims. When Operator is required to indemnify, defend and hold harmless the City with respect to a claim under Section [X].01, the City shall not unreasonably withhold, condition, or delay its consent to any settlement thereof proposed by Operator under which the City would not be required to pay any money or undertake any liability.

Notwithstanding anything to the contrary, the obligations of Operator under this Section [X] in respect of injury or death to persons or damage to property, so long as Operator has maintained the insurance required by Section [Y], shall be limited to the proceeds of insurance required to be maintained under Section [Y], actually received by Operator. However, if Operator fails to comply with Section [Y] (such as by failing to keep in force policies of insurance as required by Section [Y]), the preceding sentence shall be deemed modified so that the proceeds of insurance “actually received by Operator” shall be the proceeds that Operator would have been entitled to receive had Operator complied with Section [Y].